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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/756,159

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William Kress Bodin

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EXAMINER

RUTLEDGE, AMELIA L

ART UNIT

PAPER NUMBER

2176

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/756,159

Applicant(s)

BODIN ET AL.

Examiner

Amelia Rutledge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to communications: amendment, filed 06/15/2006.
2. Claims 1- 38 are pending in the case. Claims 1, 13, and 25 are independent claims. Claims 37 and 38 have been newly added.
3. The rejections of claims 1-25 under 35 U.S.C. 101 are withdrawn pursuant to the claim amendments and recitation of practical application (Remarks, p. 14-15); which appear to overcome the rejections under 35 U.S.C. 101.
4. The previous office action mailed 03/08/2006 contained a typographical error in the heading of the section for the rejections under 35 U.S.C. 103(a), citing Brittan as the primary reference and Freire as the secondary reference. However, in the claim rejections, Freire was the primary reference. The error in the heading has been corrected and the order of primary and secondary references in the rejections remains the same.

### ***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. **Claims 25-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**
7. **In regard to independent claim 25**, claim 25 is nonstatutory because the claimed invention claims a computer program product, i.e., the description or expression of a program, and is thus directed toward neither computer components nor statutory

processes and do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. (*Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility*, hereinafter "*Interim Guidelines*", p. 53-54). It is respectfully noted that while claim 25 cites a computer program product, the claimed invention is actually directed toward a program listing and does not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. For these reasons, the claimed computer program product of claim 25 is not directed to a product under 35 U.S.C. 101, which states that a product is a tangible physical article or object, or some form of matter.

8. Secondly, claim 25 has been amended to add the limitation *the computer program product disposed in a signal bearing medium, the computer program product comprising computer program instructions capable of...* while the limitations directed toward a recording medium have been removed. Under 35 U.S.C. 101, a product is a tangible physical article or object, some form of matter, which a signal is not. That the other two product classes, machine and composition of matter, require physical matter is evidence that a manufacture was also intended to require physical matter. A signal, a form of energy, does not fall within either of the two definitions of manufacture. Thus, a signal does not fall within one of the four statutory classes of § 101. (*Interim Guidelines*, p. 55-57). For these reasons, amended independent claim 25 is directed toward nonstatutory subject matter.

**In regard to dependent claims 26-36**, claims 26-36 are rejected because they add nothing to render the claimed subject matter statutory.

**In regard to newly added dependent claims 37 and 38**, claim 37 cites the limitation ...*wherein the signal bearing medium comprises a recordable medium*, however, this limitation does not render the claimed subject matter statutory because merely claiming a *recordable medium* does not direct the claimed invention to being recorded on some computer-readable medium, since a signal bearing medium comprising a recordable medium may or may not utilize the recordation properties of the medium. Newly added claim 38 cites the limitation ... *wherein the signal bearing medium comprises a transmission medium*, and therefore claim 38 is nonstatutory for the same reasons as independent claim 25, above, since a product is a tangible physical article or object, some form of matter, which a signal and/or transmission is not.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freire et al. (hereinafter "Freire"), "WebViews: Accessing Personalized Web Content and Services", *Proceedings of the 10<sup>th</sup> International Conference on World***

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**Wide Web, May 2001, ACM Press, p. 576-586, in view of Brittan et al. (hereinafter "Brittan"), U.S. Patent No. 6,725,199, issued April 2004.**

**Independent claim 1 cites:** *A computer-implemented method for differential dynamic content delivery, the method comprising: providing a session document for a presentation, wherein the session document includes a session grammar and a session structured document;*

Freire teaches a method of creating personalized content for web pages or services (p. 577, Col. 2, par. 2), for differential dynamic content delivery. Freire teaches providing a session document for a presentation, in which a smart bookmark records and saves user browsing actions from the session in a structured document called a smart bookmark or web view (p. 578, Sect. 2.1; p. 579, fig. 2). Freire also teaches creating a session grammar for web views (p. 583, Fig. 6, Sect. 3.3; p. 584-585, Sect. 4.3). Freire also teaches encoding the smart bookmark as an XML document with XML grammar expressions.

Claim 1 also cites: *selecting from the session structured document a classified structural element in dependence upon user classifications of a user participant in the presentation; presenting the selected structural element to the user;*

Freire teaches selecting a list of web view documents which depend on user created classifications, in response to a user identification, and presenting the documents and selected structural elements, i.e., selected table rows, to the user via VoiceXML (p. 582-583, Sect. 3.2).

Claim 1 also cites: *streaming speech to the user from one or more users participating in the presentation; converting the speech to text,*

*detecting a total sound level for the user; and determining whether to display the text in dependence upon the total sound level for the user.*

While Freire does not explicitly teach streaming speech to the user from one or more users, methods of streaming speech over the internet were well known in the art at the time of the invention, and it would have been obvious to one of ordinary skill in the art to apply the voice interface methods disclosed by Freire to streaming speech, since Freire teaches methods of dynamically transcoding data into VoiceXML.

While Freire does not explicitly teach detecting a total sound level for the user, Brittan teaches a text to speech converter with plural speech synthesis engines (Summary) which converts speech to text and detects a background noise level for the user, determining whether to display the text format depending on the total noise level for the user (Col. 8, l. 34-Col. 9, l. 26; Col. 9, l. 32-38).

Both Brittan and Freire are analogous art, since both provide the user with a speech interface and convert text information to speech. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Brittan to Freire, since Freire discloses a method of delivering personalized voice enabled content to the user and would therefore benefit from the policies of dialogue style selection to increase intelligibility disclosed by Brittan (Col. 7, l. 46-Col. 8, l. 10).

**Regarding dependent claims 2-4,** while Freire does not explicitly teach detecting a total sound level for the user, Brittan teaches a text to speech converter with

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plural speech synthesis engines (Summary) which converts speech to text and detects a background noise level for the user, determining whether to display the text format depending on the total noise level for the user (Col. 8, l. 34-Col. 9, l. 26; Col. 9, l. 32-38). Brittan teaches a background analysis block for identifying user input and differentiating user speech from background noise (Col. 8, l. 34-56), compare to claim 3, *measuring a sound level on the user's voice channel during the interruption and while the user is not speaking*. Brittan teaches displaying text to the user if the background noise level is above a predetermined threshold, i.e., confidence score (Col. 9, l. 1-26),

Both Brittan and Freire are analogous art, since both provide the user with a speech interface and convert text information to speech. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Brittan to Freire, since Freire discloses a method of delivering personalized voice enabled content to the user and would therefore benefit from the policies of dialogue style selection to increase intelligibility disclosed by Brittan (Col. 7, l. 46-Col. 8, l. 10).

**Regarding dependent claims 5 and 6**, while Freire does not explicitly teach the limitations of claims 5 and 6, Brittan teaches a confidence classifier which determines the confidence level, i.e., total sound level, and the confidence score is fed directly to the style selection block to enable the block to use the score in combination with the background noise measure to determine which style to set, i.e., whether to display text (Col. 8, l. 34-63; Col. 9, l. 1-26).

Both Brittan and Freire are analogous art, since both provide the user with a speech interface and convert text information to speech. It would have been obvious to



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one of ordinary skill in the art at the time of the invention to apply Brittan to Freire, since Freire discloses a method of delivering personalized voice enabled content to the user and would therefore benefit from the policies of dialogue style selection to increase intelligibility disclosed by Brittan (Col. 7, l. 46-Col. 8, l. 10).

**Regarding dependent claim 7**, Freire teaches selecting a list of web view documents which depend on user created classifications, in response to a user identification, and presenting the documents and selected structural elements, i.e., selected table rows, to the user via VoiceXML (p. 582-583, Sect. 3.2).

**Regarding dependent claims 8-10**, Freire teaches providing a session document for a presentation, in which a smart bookmark records and saves user browsing actions from the session in a structured document called a smart bookmark or web view (p. 578, Sect. 2.1; p. 579, fig. 2). The bookmark or web view document is created from user identified presentation documents and can include user defined parameters. The web view parses the presentation grammar, i.e., language and structural elements of the page, as it is created, thereby creating the session grammar. A simplified presentation grammar is also created. Freire also teaches creating a session grammar for web views (p. 583, Fig. 6, Sect. 3.3; p. 584-585, Sect. 4.3). Freire also teaches encoding the smart bookmark as an XML document with XML grammar expressions. Freire teaches a user profile with parameters (p. 582, Sect. 3.2) and filtering the resultant document based on user identifier and parameters.

**Regarding dependent claim 11**, Freire teaches creating a web view by transcoding a table into VoiceXML, identifying a presentation attribute such as a table

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row, and inserting a classification identifier for the row, and a keyword, such as "next" or "skip" into the Voice XML document (p. 582-583, Section 3.2 and 3.3).

**Regarding dependent claim 12**, Freire teaches the concept of selecting presentation grammars from among a set of presentation grammars, i.e., form level grammars or field grammars and applying these and filtering them into presentation grammars for the output document (p. 583-585, especially p. 585, Col. 1, par. 1-2).

**Regarding independent claim 13 and dependent claims 14-24**, claims 13-24 reflect the system used to implement the methods claimed in independent claim 1 and dependent claims 2-12, and are rejected along the same rationale.

**Regarding independent claim 25 and dependent claims 26-38**, claims 25-38 reflect the computer program product and signal bearing medium used to implement the methods claimed in independent claim 1 and dependent claims 2-12, and are rejected along the same rationale.

### ***Response to Arguments***

Applicant's arguments filed 06/15/2006 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., providing multimedia content for a multimedia presentation session where the content is determined according to characteristics of participants in the session, Remarks, p. 19) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read

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into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). While applicant argues that the combination of Freire and Brittan does not teach each and every limitation of the independent claims (Remarks, p. 16-24), Freire does teach a method of creating personalized content for web pages or services (p. 577, Col. 2, par. 2), for differential dynamic content delivery. Freire teaches providing a session document for a presentation, in which a smart bookmark records and saves user browsing actions, i.e., session information, from the session in a structured document called a smart bookmark or web view (p. 578, Sect. 2.1; p. 579, fig. 2). Freire also teaches creating a session grammar for web views (p. 583, Fig. 6, Sect. 3.3; p. 584-585, Sect. 4.3). Freire also teaches encoding the smart bookmark as an XML document with XML grammar expressions.

While applicant argues that the combination of Freire and Brittan does not teach a session document or selecting from the session document a classified structural element in dependence upon user classifications (Remarks, p. 1-21), applicant's Specification at par. 95 cites *A session document is a repository for filtered content, presentation content that is filtered according to attributes of an audience for a presentation, an audience that presents a range of affiliations, technical abilities, security authorizations, and other attributes as will occur to those of skill in the art.* Correspondingly, Freire teaches selecting a list of web view documents, i.e., repositories for filtered content, which depend on user created classifications, in response to a user identification, and presenting the documents and selected structural elements, i.e., selected table rows, to the user via VoiceXML (p. 582-583, Sect. 3.2).

Applicant argues (Remarks, p. 22-24) that the combination of Freire and Brittan does not disclose the limitation *streaming speech to the user from one or more users participating in the presentation; converting the speech to text*, (claim 1). However, applicant's argument is moot because in the previous Office Action mailed 03/08/2006, the examiner relied upon official notice for the rejection of the limitation, reasoning that while Freire does not explicitly teach streaming speech to the user from one or more users, methods of streaming speech over the internet were well known in the art at the time of the invention, and it would have been obvious to one of ordinary skill in the art to apply the voice interface methods disclosed by Freire to streaming speech, since Freire teaches methods of dynamically transcoding data into VoiceXML. Although applicant has not requested evidence that streaming speech from one or more users was well known in the art at the time of the invention, the document "Streaming Speech: A Framework for Generating and Streaming 3-D Text-To-Speech and Audio Presentations to Wireless PDAs as Specified Using Extensions to SMIL", Goose, et al., WWW2002, May 2002, Honolulu, Hawaii, USA, p. 1-16, is provided as evidence for the official notice in the previous Office Action, and discloses the above limitation.

Contrary to applicant's arguments (Remarks, p. 23-24), the combination of Brittan and Freire discloses the limitation of claim 1 *detecting a total sound level for the user; and determining whether to display the text in dependence upon the total sound level for the user*, since while Freire does not explicitly teach detecting a total sound level for the user, Brittan does teach a text to speech converter with plural speech synthesis engines (Summary) which converts speech to text and detects a background

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noise level for the user, determining whether to display the text format depending on the total noise level for the user (Col. 8, l. 34-Col. 9, l. 26; Col. 9, l. 32-38).

11. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Brittan and Freire are analogous art, since both provide the user with a speech interface and convert text information to speech. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Brittan to Freire, since Freire discloses a method of delivering personalized voice enabled content to the user and would therefore benefit from the policies of dialogue style selection to increase intelligibility disclosed by Brittan (Col. 7, l. 46-Col. 8, l. 10). Therefore, the motivation to modify Freire may be found in Brittan at Col. 7, l. 46-Col. 8, l. 10 which and therefore could not come from hindsight.

For these reasons and the reasons of record, the rejections of the independent and dependent claims are maintained.

### **Conclusion**

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12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amelia Rutledge whose telephone number is 571-272-7508. The examiner can normally be reached on Monday - Friday 9:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AR

  
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